REMARKS

The claims have been amended to improve the style of this application.

In particular new independent claim 30 has been added which is a combination of claims 19 and 3. Claim 3 has been rejected under obviousness type double patenting over U.S. Patent 6,190,615. With this Amendment Applicant is submitting a Terminal Disclaimer with respect to U.S. Patent 6,190,615. Therefore this rejection is now moot. Since original claim 3 was not otherwise rejected, it is Applicant's position that claim 30 is now allowable.

New independent claim 31 has been added which is a combination of claims 19 and 4. New independent claim 32 is a combination of original claims 19 and 14. New independent claim 33 is a combination of original claims 19 and 15. Claims 4, 14 and 15 were originally rejected under the double patenting. In view of the above mentioned Terminal Disclaimer, these rejections are now moot. There being no other rejections for these claims, it is Applicant's position that independent claims 31, 32 and 33 are now allowable.

New independent claims 34 and 35 are a combination of claims 19 and 6, and 7 or 8 respectively. Applicant notes that new independent claims 34 and 35 do not have the feature of the extension wall being parallel to a direction of the detection rays. Therefore the rejection with regard to claim 6 is overcome. The above mentioned Terminal Disclaimer also overcomes the double patenting rejection with regard to original claims 7 and 8. Therefore it is Applicant's position that claims 34 and 35 are now allowable.

Claim 19 has also been rejected as being anticipated by Engelhardt. Applicant has amended Engelhardt to set forth that the container body has two substantially flat and parallel

opposite walls. Applicant has reviewed the reference of Engelhardt, and finds no teaching nor suggestion of a container body having two substantially flat and parallel opposite walls. Amended claim 19 therefore defines over Engelhardt. In the embodiment of Fig. 3, these substantially flat and parallel opposite walls are shown by reference numbers 3a and 3b.

Applicant further notes that original claim 19 set forth that these opposite walls were formed of a material and a shape for passing detection rays through the opposite walls and through the cavity. Applicant finds no teaching nor suggestion in Engelhardt of any opposite walls being formed of a material and a shape for passing detection rays through those opposite walls and through the cavity. Since Engelhardt does not teach nor suggest that the opposite walls have this structure or these features, Engelhardt cannot anticipate all of original claim 19. Claim 19 therefore further defines over Engelhardt.

Applicant also notes that a person of ordinary skill in the art would not be led to believe that any opposite walls of Engelhardt are formed of a material and a shape for passing detection rays. Engelhardt clearly teaches a probe 33 which is immersed in the sample receptacle 1 to remove the liquid samples from the receptacle 1, column 4 lines 39 - 41. Since the sample is removed from the receptacle in Engelhardt, there is no need for the receptacle 1 in Engelhardt to have opposite walls formed of a material and shape for passing detection rays. Thus this feature is not inherent in Engelhardt. Furthermore, since the sample is removed from the receptacle 1 in Engelhardt, a person of ordinary skill would have no incentive to form the opposite walls of a material and a shape for passing detection rays. Claim 19 therefore cannot be considered obvious in view of Engelhardt.

New claims 27 and 28 have been added to set forth that the indicia wall is formed by a flat laminar zone projecting from the container body, and that the flat laminar zone has a longitudinal edge arranged substantially parallel to the longitudinal axis of the container body. This is shown in the embodiment of Fig. 3 by reference 7, 7a and 7b. Claims 27 and 28 further set forth that said flat laminar zone is arranged adjacent to the container body.

Applicant has reviewed Engelhardt, and finds no teaching nor suggestion of a flat laminar zone being arranged adjacent to a container body. Therefore claims 27 and 28 further define over Engelhardt.

The rejection indicates that Engelhardt describes a label portion 17. Applicant has reviewed label portion 17 of Engelhardt, and notes that element 17 is not arranged adjacent to a container body. In fact Engelhardt clearly indicates that element 17 is to be spaced from a container body. Since Engelhardt does not describe the feature of a laminar zone being arranged adjacent to a container body, claims 27 and 28 cannot be anticipated by Engelhardt. Furthermore, Applicant finds no teaching nor suggestion in Engelhardt to have element 17 be arranged adjacent a container body. Therefore claims 27 and 28 cannot be obvious in view of Engelhardt.

New independent claim 29 has been added which also sets forth the feature of two substantially flat and parallel opposite walls being part of a cavity and extending along a longitudinal axis of the cavity. Claim 29 also sets forth that the opposite walls are formed of a material and a shape for passing detection rays through the opposite walls and through the cavity. These features have been previously described with regard to claim 19. As described

with regard to claim 19, the prior art of Engelhardt does not have these features. Therefore Engelhardt can also not anticipate claim 29. Claim 29 also sets forth a cylindrical connecting part for filling the cavity where this cylindrical connecting part for filling the cavity projects from the container body. Applicant finds no teaching nor suggestion of this cylindrical connecting part in Engelhardt. Therefore claim 29 further defines over Engelhardt.

Claims 6, 21 and 22 are rejected because of the phrases "parallel to the detection rays". The rejection states that it is unclear how to form a wall that would be parallel to detection rays when one does not know where the rays will be or what direction they will be traveling. Applicant notes that independent claim 19 sets forth that the rays pass through the opposite walls and through the cavity. Therefore the direction of the rays is set forth. Claim 6, 21 and 22 therefore set forth a limitation that limits the walls of the tubes to only those walls that are parallel to detection rays that pass through the opposite walls and through the cavity. Walls that are not parallel to rays passing through the opposite walls and through the cavity are therefore not covered by these claims. It is Applicant's position that this limitation is clear and definite and further limits the structure of the flat laminar zone. If the Examiner has any comments or suggestions for alternate wording of this feature, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

At this time Applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted
for Applicant,

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TD:tf
70012.4
Attached: Petition for Two Month Extension of Time
Terminal Disclaimer
Request to Charge Deposit Account (for extra claims)

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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.